

HOUSE BILL 104

L2

5lr0866

By: **Montgomery County Delegation**

Introduced and read first time: January 23, 2015

Assigned to: Environment and Transportation and Ways and Means

A BILL ENTITLED

AN ACT concerning

Montgomery County – Transit Authority

MC 24–15

FOR the purpose of authorizing the governing body of Montgomery County to create, by local law, a Transit Authority to perform county transit functions as an instrumentality of the county and body corporate and politic and governed by a certain board; authorizing the governing body, by local law, to create a special taxing district to finance the cost of county transit functions, impose a certain special tax, specify the organization of the Transit Authority, specify certain powers of the Transit Authority, establish a certain budget process for the Transit Authority, and specify certain other matters related to the Transit Authority; providing that provisions of the Montgomery County Charter do not apply to the Transit Authority except under certain circumstances; providing that a certain tax limitation does not apply to certain revenue raised for certain purposes; authorizing the Transit Authority to provide for the issuance of certain revenue bonds for certain purposes, subject to certain conditions and exempt from certain provisions of law; providing for the tax exempt status of certain bonds; providing for reversion of certain title to property under certain circumstances; declaring the Transit Authority to be a “constituted authority” for certain purposes; authorizing the governing body to transfer certain county transit functions to the Transit Authority; requiring the governing body to provide by local law certain provisions relating to certain employees under certain circumstances; requiring the Maryland Department of Transportation to grant to the Transit Authority certain rights; requiring that the Transit Authority be entitled to receive certain funds under certain circumstances; requiring the Transit Authority to be subject to the Montgomery County Public Ethics Law; defining certain terms; altering the definition of “local government” as it relates to the Local Government Tort Claims Act; providing for the construction of certain provisions of this Act; and generally relating to the creation of a Transit Authority for Montgomery County.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY adding to

Article – Local Government
 Section 21–703
 Annotated Code of Maryland
 (2013 Volume and 2014 Supplement)

BY repealing and reenacting, with amendments,

Article – Courts and Judicial Proceedings
 Section 5–301(d)(28) and (29)
 Annotated Code of Maryland
 (2013 Replacement Volume and 2014 Supplement)

BY adding to

Article – Courts and Judicial Proceedings
 Section 5–301(d)(30)
 Annotated Code of Maryland
 (2013 Replacement Volume and 2014 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 That the Laws of Maryland read as follows:

Article – Local Government

21–703.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “BOND” MEANS A SPECIAL OBLIGATION BOND, NOTE, COMMERCIAL PAPER, OR ANY OTHER SIMILAR INSTRUMENT ISSUED BY MONTGOMERY COUNTY OR THE TRANSIT AUTHORITY, AS THE CONTEXT MAY INDICATE, UNDER THIS SECTION.

(3) “COST” INCLUDES ANY EXPENSE NECESSARY OR INCIDENT TO THE PLANNING, DESIGN, FINANCING, ACQUISITION, CONSTRUCTION, RECONSTRUCTION, RENOVATION, MAINTENANCE, EQUIPPING, AND OPERATION OF COUNTY TRANSIT FUNCTIONS.

(4) “COUNTY TAX LIMITATION” MEANS A PROVISION OF THE MONTGOMERY COUNTY CHARTER THAT LIMITS:

(I) THE MAXIMUM PROPERTY TAX RATE THAT THE COUNTY MAY IMPOSE; OR

(II) THE RATE OF GROWTH OF COUNTY PROPERTY TAX REVENUES.

(5) "COUNTY TRANSIT FUNCTIONS" INCLUDES, FOR MONTGOMERY COUNTY, THE PLANNING, DESIGN, FINANCING, ACQUISITION, CONSTRUCTION, RECONSTRUCTION, RENOVATION, MAINTENANCE, EQUIPPING, AND OPERATION OF ANY ONE OR MORE OR COMBINATION OF TRACKS, RIGHTS-OF-WAY, BRIDGES, TUNNELS, SUBWAYS, ROLLING STOCK, STATIONS, TERMINALS, PORTS, PARKING AREAS, PARKING STRUCTURES, EQUIPMENT, FIXTURES, BUILDING STRUCTURES, OTHER REAL OR PERSONAL PROPERTY, OR SERVICES INCIDENTAL TO OR USEFUL OR DESIGNED FOR USE IN CONNECTION WITH THE RENDERING OF TRANSIT SERVICE BY ANY MEANS, INCLUDING RAIL, BUS, MOTOR VEHICLE, OR OTHER MODE OF TRANSPORTATION.

(6) (I) "SPECIAL TAX" MEANS AN AD VALOREM PROPERTY TAX, AN EXCISE TAX, AN ASSESSMENT, A FEE, OR A CHARGE IMPOSED IN A SPECIAL TAXING DISTRICT.

(II) "SPECIAL TAX" DOES NOT INCLUDE AN AD VALOREM PROPERTY TAX, AN EXCISE TAX, AN ASSESSMENT, A FEE, OR A CHARGE IMPOSED UNDER CHAPTER 20A OF THE MONTGOMERY COUNTY CODE.

(7) "SPECIAL TAXING DISTRICT" MEANS A SINGLE GEOGRAPHIC AREA THAT INCLUDES THE ENTIRE COUNTY.

(8) "TRANSIT AUTHORITY" MEANS THE TRANSIT AUTHORITY CREATED UNDER SUBSECTION (B)(1) OF THIS SECTION.

(B) THE GOVERNING BODY OF MONTGOMERY COUNTY, BY LOCAL LAW, MAY:

(1) CREATE A TRANSIT AUTHORITY TO PERFORM COUNTY TRANSIT FUNCTIONS THAT IS:

(I) AN INSTRUMENTALITY OF MONTGOMERY COUNTY THAT MAY SUE AND BE SUED AND IS A BODY CORPORATE AND POLITIC; AND

(II) GOVERNED BY A BOARD COMPOSED OF FIVE MEMBERS ALL OF WHOM SHALL BE APPOINTED BY THE COUNTY EXECUTIVE SUBJECT TO CONFIRMATION BY THE COUNTY COUNCIL;

(2) CREATE A SPECIAL TAXING DISTRICT TO FINANCE THE COST OF COUNTY TRANSIT FUNCTIONS;

(3) IMPOSE A SPECIAL TAX;

(4) SPECIFY THE ORGANIZATION OF THE TRANSIT AUTHORITY;

(5) SPECIFY THE POWERS NECESSARY AND PROPER FOR THE TRANSIT AUTHORITY TO EXERCISE ITS ASSIGNED COUNTY TRANSIT FUNCTIONS, INCLUDING THE POWER TO:

(I) INCUR DEBT, INCLUDING ISSUING REVENUE BONDS, COMMERCIAL PAPER, OR OTHER SIMILAR INSTRUMENTS, INCLUDING REVENUE BONDS ISSUED TO REFUND OUTSTANDING DEBT INSTRUMENTS, SECURED BY REVENUES RECEIVED BY THE TRANSIT AUTHORITY AND OTHER FUNDS THAT THE COUNTY OR ANY OTHER GOVERNMENTAL OR PRIVATE PERSON MAY MAKE AVAILABLE FOR THAT PURPOSE;

(II) ACQUIRE REAL AND PERSONAL PROPERTY AND INTERESTS IN REAL AND PERSONAL PROPERTY LOCATED IN AND OUTSIDE THE SPECIAL TAXING DISTRICT AND PLEDGE, MORTGAGE, ENCUMBER, GRANT CONCESSIONS IN CONNECTION WITH, SELL, LEASE, TRANSFER, OR CONVEY ANY INTEREST IN ITS REAL AND PERSONAL PROPERTY TO THE COUNTY OR ANY PERSON;

(III) ACQUIRE PROPERTY BY CONDEMNATION IN ACCORDANCE WITH TITLE 12 OF THE REAL PROPERTY ARTICLE, IF THE ACQUISITION OF THE PROPERTY IS NEEDED TO IMPLEMENT THE CAPITAL IMPROVEMENT PROGRAM OF THE TRANSIT AUTHORITY;

(IV) ENTER INTO CONTRACTS WITH PERSONS AND OTHER GOVERNMENTAL UNITS, INCLUDING UNITS OF FEDERAL, STATE, AND LOCAL GOVERNMENTS;

(V) ADOPT POLICIES AND PROCEDURES RELATING TO THE PROCUREMENT OF GOODS AND SERVICES;

(VI) ADOPT POLICIES, PROCEDURES, POSITION DESCRIPTIONS, AND COMPENSATION PLANS RELATING TO THE RECRUITMENT, HIRING, TERMS OF EMPLOYMENT, DISCIPLINE, RETENTION, AND TERMINATION OF EMPLOYEES;

(VII) ENTER INTO AGREEMENTS AND ESTABLISH AND PARTICIPATE IN VENTURES AND PUBLIC-PRIVATE PARTNERSHIPS IN WHICH THE TRANSIT AUTHORITY, PRIVATE PARTIES, OTHER GOVERNMENTAL UNITS, AND INSTRUMENTALITIES OF OTHER GOVERNMENTAL UNITS MAKE INVESTMENTS, PROVIDE LOANS, AND SHARE FACILITIES AND OPERATIONS; AND

(VIII) RECEIVE AND MANAGE FUNDS, ACCEPT GRANTS AND GIFTS FROM PUBLIC AND PRIVATE PARTIES, AND INVEST FUNDS;

(6) ESTABLISH A BUDGET PROCESS FOR THE TRANSIT AUTHORITY THAT:

(I) MAY INCLUDE A REQUIREMENT THAT THE TRANSIT AUTHORITY SUBMIT A 6-YEAR CAPITAL IMPROVEMENT PROGRAM TO THE COUNTY FOR APPROVAL AND THAT THE TRANSIT AUTHORITY'S CAPITAL AND OPERATING BUDGET BE CONSISTENT WITH THE CAPITAL IMPROVEMENT PROGRAM AND THE COUNTY'S APPLICABLE MASTER PLANS; AND

(II) MAY NOT REQUIRE THE TRANSIT AUTHORITY TO SUBMIT ITS CAPITAL OR ITS OPERATING BUDGET TO THE COUNTY FOR APPROVAL; AND

(7) SPECIFY ANY OTHER MATTERS THE COUNTY DEEMS NECESSARY AND PROPER RELATING TO THE TRANSIT AUTHORITY AS THE COUNTY MAY DETERMINE.

(C) PROVISIONS OF THE MONTGOMERY COUNTY CHARTER DO NOT APPLY TO THE TRANSIT AUTHORITY, UNLESS THE GOVERNING BODY OF MONTGOMERY COUNTY EXPRESSLY PROVIDES BY LAW THAT A CHARTER PROVISION APPLIES TO THE TRANSIT AUTHORITY.

(D) A MONTGOMERY COUNTY TAX LIMITATION THAT WOULD OTHERWISE APPLY TO AD VALOREM OR SPECIAL TAXES IMPOSED IN A SPECIAL TAXING DISTRICT DOES NOT APPLY TO REVENUE, INCLUDING TAX REVENUE, RAISED FOR THE PURPOSE OF PAYING THE COST OF COUNTY TRANSIT FUNCTIONS.

(E) (1) NOTWITHSTANDING ANY OTHER PUBLIC GENERAL LAW, PUBLIC LOCAL LAW, OR THE MONTGOMERY COUNTY CHARTER, THE TRANSIT AUTHORITY, WITH THE APPROVAL OF THE GOVERNING BODY OF MONTGOMERY COUNTY, MAY PROVIDE FOR THE ISSUANCE OF REVENUE BONDS TO FINANCE THE COST OF CAPITAL EXPENSES OF COUNTY TRANSIT FUNCTIONS PROVIDED DIRECTLY OR INDIRECTLY BY THE TRANSIT AUTHORITY, FOR WHICH THE PRINCIPAL, INTEREST, AND ANY PREMIUM IS SECURED BY A SPECIAL TAX AND OTHER FUNDS THAT MAY BE LEGALLY MADE AVAILABLE FOR THAT PURPOSE.

(2) REVENUE BONDS ISSUED UNDER THIS SUBSECTION ARE SPECIAL OBLIGATIONS OF THE TRANSIT AUTHORITY AND DO NOT CONSTITUTE A GENERAL OBLIGATION DEBT OF THE COUNTY OR A PLEDGE OF THE COUNTY'S FULL FAITH AND CREDIT OR GENERAL TAXING POWER.

(3) REVENUE BONDS ISSUED BY THE TRANSIT AUTHORITY UNDER THIS SUBSECTION MAY BE SOLD IN ANY MANNER, EITHER AT PUBLIC OR PRIVATE SALE, AND ON TERMS THAT THE TRANSIT AUTHORITY CONSIDERS BEST.

(4) REVENUE BONDS ISSUED BY THE TRANSIT AUTHORITY UNDER THIS SUBSECTION ARE NOT SUBJECT TO §§ 19-205 AND 19-206 OF THIS ARTICLE.

(5) REVENUE BONDS ISSUED BY THE TRANSIT AUTHORITY UNDER THIS SUBSECTION AND THE TRANSFER OF, INTEREST PAYABLE ON, AND ANY INCOME DERIVED FROM, INCLUDING ANY PROFIT REALIZED ON THE SALE OR EXCHANGE OF, REVENUE BONDS ISSUED BY THE TRANSIT AUTHORITY UNDER THIS SUBSECTION ARE EXEMPT FROM TAXATION BY THE STATE, THE COUNTY, OR A MUNICIPALITY.

(6) IN ADDITION TO THE SPECIAL TAXES, REVENUE BONDS ISSUED BY THE TRANSIT AUTHORITY UNDER THIS SECTION MAY BE SECURED BY OTHER REVENUES OR PROPERTY OF THE TRANSIT AUTHORITY AND OTHER FUNDS THAT MAY BE LEGALLY MADE AVAILABLE FOR THAT PURPOSE.

(F) ANY BONDS ISSUED BY THE TRANSIT AUTHORITY AND THE TRANSFER OF, INTEREST PAYABLE ON, AND ANY INCOME DERIVED FROM, INCLUDING ANY PROFIT REALIZED ON THE SALE OR EXCHANGE OF, ANY BONDS ISSUED BY THE TRANSIT AUTHORITY ARE EXEMPT FROM TAXATION BY THE STATE, THE COUNTY, OR A MUNICIPALITY.

(G) (1) REVENUE BONDS ISSUED BY THE TRANSIT AUTHORITY AUTHORIZED BY THIS SECTION ARE HEREBY MADE SECURITIES IN WHICH ALL PUBLIC OFFICERS AND PUBLIC AGENCIES OF THE STATE AND ITS POLITICAL SUBDIVISIONS, AND ALL BANKS, TRUST COMPANIES, SAVINGS AND LOAN ASSOCIATIONS, INVESTMENT COMPANIES, AND OTHERS CARRYING ON A BANKING BUSINESS, ALL INSURANCE COMPANIES AND INSURANCE ASSOCIATIONS AND OTHERS CARRYING ON A BANKING BUSINESS, ALL ADMINISTRATORS, EXECUTORS, GUARDIANS, TRUSTEES AND OTHER FIDUCIARIES, AND ALL OTHER PERSONS MAY LEGALLY AND PROPERLY INVEST FUNDS, INCLUDING CAPITAL, UNDER THE CONTROL OF OR BELONGING TO THE TRANSIT AUTHORITY.

(2) REVENUE BONDS ISSUED BY THE TRANSIT AUTHORITY ARE HEREBY MADE SECURITIES THAT MAY PROPERLY AND LEGALLY BE DEPOSITED WITH AND RECEIVED BY ANY STATE OR MUNICIPAL OFFICER OR ANY UNIT OR POLITICAL SUBDIVISION OF THE STATE FOR ANY PURPOSE FOR WHICH THE DEPOSIT OF BONDS OR OTHER OBLIGATIONS OF THE STATE IS NOW OR MAY HEREAFTER BE AUTHORIZED BY LAW.

(H) IN THE EVENT OF DISSOLUTION OF THE TRANSIT AUTHORITY, THE TITLE TO ALL PROPERTY OF THE TRANSIT AUTHORITY SHALL REVERT TO MONTGOMERY COUNTY.

(I) THE TRANSIT AUTHORITY IS A “CONSTITUTED AUTHORITY” WITHIN THE MEANING OF THE INTERNAL REVENUE CODE AND THE RELEVANT REGULATIONS, RULINGS, AND PROCEDURES.

(J) (1) THE GOVERNING BODY OF MONTGOMERY COUNTY MAY TRANSFER TO THE TRANSIT AUTHORITY A COUNTY TRANSIT FUNCTION PERFORMED BY THE COUNTY AT THE TIME OF THE TRANSFER, TOGETHER WITH THE RELATED ASSETS AND OBLIGATIONS.

(2) IF THE GOVERNING BODY OF MONTGOMERY COUNTY TRANSFERS TO THE TRANSIT AUTHORITY A COUNTY TRANSIT FUNCTION PERFORMED BY A COUNTY EMPLOYEE, THE GOVERNING BODY SHALL PROVIDE, BY LOCAL LAW:

(I) FOR THE TRANSFER TO THE TRANSIT AUTHORITY OF ANY EMPLOYEE THAT PERFORMED A COUNTY TRANSIT FUNCTION;

(II) THAT ANY EMPLOYEE WHO DECLINES THE TRANSFER MAY ELECT TO TREAT THE TRANSFER AS A REDUCTION IN FORCE UNDER APPLICABLE PROVISIONS OF THE COUNTY’S MERIT SYSTEM LAW, PERSONNEL REGULATIONS, AND COLLECTIVE BARGAINING AGREEMENTS; AND

(III) THAT ANY EMPLOYEE WHO ACCEPTS THE TRANSFER SHALL RETAIN THE RIGHT TO:

- 1. RETAIN CURRENT PAY;**
- 2. RETAIN ACCRUED LEAVE;**
- 3. PARTICIPATE IN THE HEALTH, DENTAL, VISION, AND LIFE INSURANCE COMPONENT PLANS OF THE COUNTY’S GROUP INSURANCE BENEFIT PLAN, SUBJECT TO THE TRANSIT AUTHORITY TAKING THE NECESSARY ACTIONS TO BECOME A PARTICIPATING AGENCY IN THE COUNTY’S GROUP INSURANCE BENEFIT PLAN;**
- 4. CONTINUE TO PARTICIPATE IN THE TRANSFERRED EMPLOYEE’S MANDATORY RETIREMENT PLAN, SUBJECT TO THE TRANSIT AUTHORITY TAKING THE NECESSARY ACTIONS TO BECOME A PARTICIPATING AGENCY; AND**

5. RETAIN ALL RIGHTS UNDER THE COUNTY'S MERIT SYSTEM UNTIL THE TRANSIT AUTHORITY ADOPTS PERSONNEL REGULATIONS.

(K) (1) IF THE GOVERNING BODY OF MONTGOMERY COUNTY TRANSFERS TO THE TRANSIT AUTHORITY A COUNTY TRANSIT FUNCTION PERFORMED BY THE COUNTY, IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (J) OF THIS SECTION, THE GOVERNING BODY SHALL PROVIDE BY LOCAL LAW IN CONNECTION WITH A TRANSIT AUTHORITY EMPLOYEE WHO IS A MEMBER OF A COLLECTIVE BARGAINING UNIT:

(I) THAT THE TRANSIT AUTHORITY SHALL ASSUME THE OBLIGATIONS OF THE EMPLOYER UNDER ANY EXTANT COLLECTIVE BARGAINING AGREEMENT FOR ANY OF THE TRANSFERRED COUNTY EMPLOYEES AND THE AGREEMENT SHALL REMAIN IN EFFECT FOR THE REMAINING TERM OF THAT AGREEMENT;

(II) FOR COLLECTIVE BARGAINING FOR TRANSIT AUTHORITY EMPLOYEES WITH ARBITRATION OR OTHER IMPASSE RESOLUTION PROCEDURES WITH AUTHORIZED REPRESENTATIVES OF TRANSIT AUTHORITY EMPLOYEES; AND

(III) THAT THE AUTHORIZED REPRESENTATIVE OF TRANSIT AUTHORITY EMPLOYEES SHALL REMAIN THE AUTHORIZED REPRESENTATIVE OF THOSE EMPLOYEES UNLESS DECERTIFIED BY EMPLOYEES UNDER THE COLLECTIVE BARGAINING LAW ENACTED UNDER THIS SUBSECTION.

(2) ANY LOCAL LAW ENACTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(I) PROHIBIT STRIKES OR WORK STOPPAGES FOR TRANSIT AUTHORITY EMPLOYEES; AND

(II) BE SUBSTANTIALLY SIMILAR TO §§ 33-101 THROUGH 33-112 OF THE MONTGOMERY COUNTY CODE.

(L) (1) THE MARYLAND DEPARTMENT OF TRANSPORTATION SHALL GRANT TO THE TRANSIT AUTHORITY THE RIGHT TO USE RIGHTS-OF-WAY ON STATE HIGHWAYS AND ROADS IN CONNECTION WITH COUNTY TRANSIT FUNCTIONS, SUBJECT TO REASONABLE CONDITIONS THAT ARE NEGOTIATED IN GOOD FAITH BETWEEN THE TRANSIT AUTHORITY AND THE DEPARTMENT.

(2) THE DEPARTMENT SHALL COOPERATE IN THE DESIGN AND CONSTRUCTION OF COUNTY TRANSIT FACILITIES.

(3) IF THE GOVERNING BODY OF MONTGOMERY COUNTY TRANSFERS TO THE TRANSIT AUTHORITY OPERATION OF ITS SCHEDULED LOCAL BUS SERVICE, THE TRANSIT AUTHORITY SHALL BE ENTITLED TO RECEIVE MONTGOMERY COUNTY’S ANNUAL GRANT FOR ELIGIBLE LOCAL BUS SERVICE UNDER § 10-207 OF THE TRANSPORTATION ARTICLE.

(M) THE TRANSIT AUTHORITY SHALL BE SUBJECT TO THE MONTGOMERY COUNTY PUBLIC ETHICS LAW.

(N) THIS SECTION SHALL BE LIBERALLY CONSTRUED TO EFFECT ITS PURPOSES.

Article – Courts and Judicial Proceedings

5-301.

(d) “Local government” means:

(28) The nonprofit corporation serving as the local public transportation authority for Garrett County pursuant to a contract or memorandum of understanding with Garrett County (Garrett County Community Action Committee, Inc.); [and]

(29) The nonprofit corporation serving as the industrial development authority of Carroll County established under Title 12, Subtitle 1 of the Economic Development Article; **AND**

(30) THE MONTGOMERY COUNTY TRANSIT AUTHORITY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2015.